## UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

JAMES DOUGLAS SMITH	]	
Plaintiff,	]	
	]	
v.	1	No. 3:14-0548
	]	CHIEF JUDGE HAYNES
HOWARD GENTRY	ĵ	
Defendant.	Ī	

## ORDER

The Court has before it a *pro se* prisoner complaint (Docket Entry No. 1). In an earlier Order (Docket Entry No. 9) the Court granted plaintiff's application to proceed in forma pauperis, but under 28 U.S.C. § 1915(b)(1)(A) and (B), the Court mus assess Plaintiff the civil filing fee of \$350.00 and it is **ORDERED** that the custodian of the Plaintiff's inmate trust account at the institution where he now resides is directed to submit to the Clerk of Court, as an initial partial payment, whichever is greater of:

- (a) twenty percent (20%) of the average monthly deposits to the Plaintiff's inmate trust account; <u>or</u>
- (b) twenty percent (20%) of the average monthly balance in the Plaintiff's inmate trust account for the prior six (6) months.

Thereafter, the custodian shall submit twenty percent (20%) of the Plaintiff's preceding monthly income (or income credited to the Plaintiff's trust account for the preceding month), but only when such monthly income exceeds ten dollars (\$10.00), until the full filing fee of three hundred

fifty dollars (\$350.00) as authorized under 28 U.S.C. § 1914(a) has been paid to the Clerk of Court.

28 U.S.C. § 1915(b)(2).

In accordance with the Memorandum filed herewith, this action is hereby DISMISSED with

prejudice. 28 U.S.C. § 1915(e)(2).

An appeal of the judgment rendered herein would not be taken in good faith. Coppedge v.

United States, 369 U.S. 438, 445-446 (1962). Therefore, the Plaintiff is NOT certified to pursue an

appeal of this judgment in forma pauperis. 28 U.S.C. § 1915(a)(3).

Nevertheless, should the Plaintiff decide to file a notice of appeal, he must either pay the

Clerk of Court the full appellate filing fee of five hundred five dollars (\$505) or submit a new

application to proceed in forma pauperis with a certified copy of his inmate trust account statement

for the previous six month period. 28 U.S.C. § 1915(a)(1); McGore v. Wrigglesworth, 114 F.3d 601

(6th Cir. 1997).

The Clerk is directed to send a copy of this order to the Warden of the Metro Davidson

County Detention Facility to ensure that the custodian of Plaintiff's inmate trust account complies

with that portion of the Prison Litigation Reform Act relating to the payment of the filing fee.

Entry of this order shall constitute the judgment in this action.

It is so **ORDERED**.

ENTERED this the 26 day of February, 2014.

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WILLIAM J. (HAYNES, JR

Chief Judge

United States District Court